

July 22, 2009

/Anita J. Galo/

July 22, 2009

SIGNATURE

DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Edward C. BENZEL et al.
Serial No. : 10/731,942
Filing Date : December 10, 2003
For : METHOD AND APPARATUS FOR
REPLACING A DAMAGED SPINAL
DISC
Confirmation No. : 6468
Art Unit : 3733
Examiner : Julianna Nancy Harvey
Attorney Docket : AXM-6666

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

1. Pursuant to 37 CFR §1.97 and §1.98, and in compliance with CFR §1.56, the Office's attention is directed to the patents, pending applications, publications and other information listed on the attached PTO-1449. Applicant(s) make no admission that the documents are prior art to the present invention.
2. Regarding each listed document that is not in the English language, an English-language translation accompanies this Statement as indicated on the attached PTO-1449 or a corresponding U.S. Patent is enclosed, or an English abstract, or a concise explanation of the relevance of the document is set forth on an attached sheet.
3. Pursuant to 37 CFR §1.97(b) this Statement is being filed (one must be checked):
 - (a) ☐ Within three months of the filing date or date of entry into the National Stage.
 - (b) ☐ Before the mailing date of a first Office Action on the merits.

- (c) ☐ After the period set forth in 37 CFR §1.97(b) but before the mailing date of either a final action or a notice of allowance or an action that otherwise closes prosecution in the application.
- 1) ☐ A certification is given below,
 - 2) ☐ Enclosed is a check covering the fee (\$180.00) set forth in §1.17(p) for consideration of this Statement, or
 - 3) ☐ Charge the fee set forth in 37 CFR §1.17(p) to Deposit Account No. 20-0090.
 - 4) ☐ Charge the fee set forth in 37 CFR §1.17(p) to the Credit Card as shown on the attached Credit Card information authorization form PTO-2038.
- (d) ☒ After the mailing date of either a final action or a notice of allowance, but before payment of the issue fee. The required certification and fee is indicated below.
- 1) ☐ Enclosed is a check covering the fee set forth in 37 CFR §1.17(p) \$180, or
 - 2) ☐ Charge the fee set forth in 37 CFR §1.17(p) to Deposit Account No. 20-0090.
 - 3) ☒ Charge the fee set forth in 37 CFR §1.17(p) to the Credit Card as shown on the attached Credit Card information authorization form PTO-2038.

4. Certification (if applicable):

- (a) ☒ The undersigned hereby certifies that each item of information contained in this Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement.

- (b) ☐ The undersigned hereby certifies that no item of information contained in this Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the undersigned's knowledge after making reasonable inquiry no item of information contained in the Statement, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Statement.
5. The Commissioner is hereby authorized to charge any additional fees, fees underpaid, or credit any overpayment with regard to this Statement to Deposit Account No. 20-0090.
6. Concise Explanation (if needed):
- (1) ☐ Below is a Concise Statement of Relevance of enclosed non-English language document(s).

FOREIGN PATENT DOCUMENTS

Patent No.

Relevance

PCT WO 1995/026697 A1

In English.

Respectfully submitted,

/James L. Tarolli/

James L. Tarolli
Reg. No.36,029

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
1300 East Ninth Street, Suite 1700
Cleveland, OH 44114
Phone: (216) 621-2234
Fax: (216) 621-4072
Customer No.: 26,294